

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Civil Action No.: 5:19-cv-250-FL

EPIC GAMES, INC.,)
Plaintiff,)
v.) Civil Action No.: 5:19-cv-250-FL
C.B.,)
Defendant.)

)

**MEMORANDUM IN SUPPORT OF
CONSENT MOTION FOR ENTRY OF ORDER OF APPROVAL**

Defendant C.B., a minor (“Defendant” or “C.B.”), together with his mother and general guardian, Kari Bennett (“Defendant’s General Guardian” or “Ms. Bennett”), submits the following memorandum of law in support of the Motion for Entry of the Order of Approval. As described below, the Motion for Entry of the Order of Approval should be granted and the proposed Order of Approval should be entered because the parties have stipulated and agreed to it and it meets the all the requirements of Local Civil Rule 17.1 (“Rule 17.1”).

FACTS

This case, filed on June 18, 2019, is a civil action seeking injunctive relief and damages against Defendant C.B. for (i) copyright infringement in violation of the Copyright Act, 17 U.S.C. §§ 106 and 501, *et seq.*; (ii) contributory copyright infringement in violation of the Copyright Act, §§ 106 and 501, *et seq.*; (iii) circumvention of technological measures in violation of the Digital Millennium Copyright Act (“DMCA”), 17 U.S.C. §§ 1201(a)-(b), 1203; and (iv) trafficking in technological measures in violation of the Digital Millennium Copyright Act (“DMCA”), 17 U.S.C. §§ 1201(a)-(b), 1203. (Comp. [DE 1] at ¶ 1.) Defendant is a minor,

and is represented by legal counsel and his mother, acting as his general guardian in accordance with Rule 17(c)(1) of the Federal Rules of Civil Procedure. On August 5, 2019, Defendant filed a Motion to Dismiss for Lack of Jurisdiction [DE 16], to which Plaintiff Epic Games, Inc. (“Epic”) responded on August 23, 2019 [DE 23]. Defendant withdrew his motion to dismiss. Epic and Defendant’s counsel (together with Defendant C.B. and Defendant’s General Guardian) began settlement negotiations and, ultimately entered into a Settlement Agreement effective as of September 16, 2019.

ARGUMENT

Under Rule 17.1, in order to settle a civil action with a minor, an “Order of Approval [must be] entered by the court.” Unless otherwise ordered by the Court, an Order of Approval must contain three statements as to certain topics set forth in the Rule. Because, as shown below, the Rule has been fully satisfied, Defendant respectfully requests that the Motion for Entry of Order be granted and the proposed Order of Approval entered.

A. The Requirements of Local Civil Rule 17.1(b)(1) Regarding Representation, Joinder, and Jurisdiction Have Been Met

Pursuant to subsection 1 of the Rule, the Order is required to state that all parties are properly represented and are properly before the court. Local Rule 17.1(b)(1). The Order satisfies this requirement in paragraphs 2-5. The Order is also required to state that no questions exist as to misjoinder or nonjoinder of the parties. Local Rule 17.1(b)(1). The Order makes this statement in paragraph 4. The Order is then required to state that the court has jurisdiction over the subject matter and the parties. (*Id.*) The Order satisfies this requirement in paragraphs 1-2.

B. The Requirement of Local Civil Rule 17.1(b)(2) Regarding the “Statement of Contentions” Has Been Met

Because C.B. is the defendant in this case, the applicable portion of subsection 2 of the Rule requires that a “statement of contentions sufficient to show that no affirmative defenses

could clearly be raised in bar of recovery" must be made in the Order. Local Rule 17.1(b)(2).

The Order satisfies this requirement by paragraph 7 of the Order.

C. The Requirement of Local Civil Rule 17.1(b)(3) Regarding the Fairness of the Settlement Agreement Has Been Met

As described in paragraphs 1, 4, and 9 of the Order, C.B. and Kari Bennett, C.B.'s mother and general guardian, defended this action on his behalf and were advised by counsel in entering into the Settlement Agreement. Accordingly, the portion of subsection 3 of the Rule which requires that "an opinion as to the fairness and reasonableness of the settlement" must be included in the Order, Local Rule 17.1(b)(3), is satisfied by paragraph 9 of the Order.

CONCLUSION

For the foregoing reasons, Defendant respectfully requests that his Motion for Entry of Order of Approval be granted and the Order of Approval entered.

Respectfully submitted, this 26th day of September, 2019.

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